

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

HERMÈS INTERNATIONAL and  
HERMÈS OF PARIS, INC.,

Plaintiffs,

v.

MASON ROTHSCHILD,

Defendant.

No. 22-cv-00384-JSR

ECF Case

**DECLARATION OF RHETT O.  
MILLSAPS II IN SUPPORT OF  
ROTHSCHILD'S OPPOSITION  
TO PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT**

I, RHETT O. MILSAPS II, hereby declare as follows:

1. I am the managing member of the law firm Lex Lumina PLLC, counsel to Defendant Mason Rothschild in this action. I submit this declaration in support of Mr. Rothschild's Opposition to Plaintiffs' Motion for Summary Judgment. I make this declaration based upon my knowledge of matters in this action and to place before the Court the following documents.

2. Attached hereto as Exhibit 1 is a true and correct copy of documents produced by Mr. Rothschild in this action, Bates numbered Rothschild0011356-11359, Rothschild0011416-11428, Rothschild0014566-14594, Rothschild0014660-14663, Rothschild0014683-14685, Rothschild0014687-14694, and Rothschild0014796-14802.

3. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the deposition transcript of Blake Gopnik, dated September 23, 2022.

4. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the deposition transcript of Mason Rothschild, dated August 4, 2022.

5. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the deposition transcript of Scott Kominers, dated August 29, 2022.

6. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from the deposition transcript of Nicolas Martin, dated August 30, 2022.

7. Attached hereto as Exhibit 6 is a true and correct copy of excerpts from the deposition transcript of Boriana Guimberteau, dated Sept. 14, 2022.

8. Attached hereto as Exhibit 7 is a true and correct copy of excerpts from the deposition transcript of Kenneth Loo, dated August 10, 2022.

9. Attached hereto as Exhibit 8 is a true and correct copy of excerpts from the deposition transcript of Kenneth Loo, dated September 7, 2022.

10. Attached hereto as Exhibit 9 is a true and correct copy of excerpts from the deposition transcript of David Cohen, dated September 22, 2022.

11. Attached hereto as Exhibit 10 is a true and correct copy of documents produced by Mr. Rothschild in this action, Bates numbered Rothschild008283.

12. Attached hereto as Exhibit 11 is a true and correct copy of an email that I sent to Oren Warshavsky, dated October 11, 2022.

13. Attached hereto as Exhibit 12 is a true and correct copy of documents produced by Mr. Rothschild in this action, Bates numbered Rothschild018426-018476.

14. Attached hereto as Exhibit 13 is a true and correct copy of excerpts from the deposition transcript of Bruce Isaacson, dated September 20, 2022.

15. My firm engaged a nationally recognized discovery vendor, Consilio, with whom we have worked on numerous cases, to provide services in this case, including to collect, search, and prepare for production electronically stored information (ESI) in Mr. Rothschild's possession, custody, or control. On June 8, 2022, Consilio collected voluminous ESI from Mr. Rothschild and various accounts that belong to him, including but not limited to all of Mr. Rothschild's phone, computer, messaging data, and emails, complete social media data for numerous accounts, and all of the data from Mr. Rothschild's Discord account. We then worked diligently to conduct a reasonable search and review of that ESI for responsive documents under the deadlines in this case, and we produced to Plaintiffs more than 18,000 pages during discovery.

16. On October 17, 2022, my office was first made aware that Mr. Rothschild's Discord data had been produced in a limited, unusable format. Consilio explained to me for the first time that day that this was because of the unusual nature of the Discord software; though Consilio uses industry standard tools to collect, search, and produce ESI, Consilio's representatives explained that their tools did not allow them to search and produce Discord messages in the way that they are able to produce other types of electronic communications. A more detailed explanation of the issue is contained in the Declaration of James Kerr dated October 19, 2022.

17. During discovery in this case, Plaintiffs' counsel never alerted my office that Mr. Rothschild had failed to produce responsive Discord messages in an intelligible or usable format. Had Plaintiffs' counsel raised this issue with us during discovery, we would have worked cooperatively and expeditiously to produce Mr. Rothschild's responsive Discord data in an

intelligible and usable format, as we worked cooperatively and expeditiously to remedy other deficiencies that Plaintiffs' counsel wrote to us about over the course of discovery.

18. I declare under penalty of perjury that the foregoing is accurate to the best of my knowledge.

Dated: October 21, 2022  
New York, New York

/s/ Rhett O. Millsaps II  
Rhett O. Millsaps II